

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

| | | |
|-----------------------|---|-----------------------|
| NORMAN TOLER, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 4:21-cv-01219-SEP |
| |) | |
| JANINE SEMAR, et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff Norman Toler’s Motion to Voluntarily Dismiss his case. Doc. [5]. In support of the Motion, Plaintiff notes that he filed a civil complaint under the Religious Land Use and Institutionalized Persons Act, that his Motion for Leave to Proceed In Forma Pauperis has not yet been ruled upon, and that Defendants have not yet been served.

The Court has construed Plaintiff’s Motion as a notice of dismissal pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, and will allow Plaintiff to dismiss his case without prejudice. *See* Fed. R. Civ. P. 41(a)(i) (stating that a plaintiff may dismiss an action by filing “a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment”). The dismissal will not count as a “strike” under 28 U.S.C. § 1915(g). Plaintiff’s pending Motions for Leave to Proceed In Forma Pauperis (Doc. [2]) and Appointment of Counsel (Doc. [3]) will be denied as moot.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff’s Motion to Voluntarily Dismiss his case (Doc. [5]) is **GRANTED**.

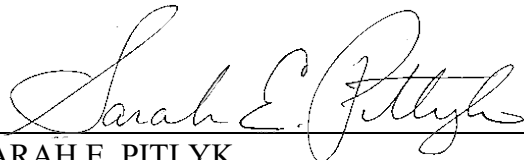
IT IS FURTHER ORDERED that this action is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

IT IS FURTHER ORDERED that Plaintiff’s Motions for Leave to Proceed In Forma Pauperis (Doc. [2]) and Appointment of Counsel (Doc. [3]) are **DENIED AS MOOT**.

IT IS FURTHER ORDERED that this dismissal shall not constitute a “strike” under 28 U.S.C. § 1915(g).

IT IS FINALLY ORDERED that an appeal from this dismissal would not be taken in good faith.

Dated this 18th day of February 2022.



SARAH E. PITLYK
UNITED STATES DISTRICT JUDGE